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October 3, 2022

*VIA ECF*

Hon. Valerie E. Caproni  
United States District Court  
Southern District of New York  
40 Foley Square, Room 240  
New York, NY 10007  
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CaproniNYSDChambers@nysd.uscourts.gov

Re: *Syracuse Mountains Corp. v. Petróleos de Venezuela S.A.*, No. 1:21-cv-02684-VEC

Dear Judge Caproni:

We represent defendant Petróleos de Venezuela, S.A. (“PDVSA”) in the above-referenced action. As directed by this Court in its order dated February 11, 2022 [ECF No. 49], we submit this letter to provide the Court with an update regarding the status of discovery. PDVSA last updated this Court on these matters in its August 1, 2022 letter [ECF No. 88].

**Letters of Request**

Since its last discovery update, PDVSA has continued to work with local counsel to enforce the letters of request and letters rogatory issued by this Court.

**Dinosaur Merchant Bank Ltd.**

Completed – no further proceedings expected.

**The Bank of New York Depository (Nominees) Limited**

Completed – no further proceedings expected.

**Zuma Bank Corporation**

Completed – no further proceedings expected.

**Bank Internationale à Luxembourg; Bank of New York Mellon SA/NV, Luxembourg Branch; Clearstream Banking S.A.; and J. Safra Sarasin (Luxembourg) S.A.**

The four letters of request directed to entities in Luxembourg were each forwarded from the Central Authority of Luxembourg to the competent court for their enforcement. On September 29, 2022, the Luxembourg court adjudicating these requests confirmed that responses had been received from all subpoenaed parties by September 26, 2022. The responses were then forwarded to the Luxembourg Central Authority, which, on September 30, 2022, notified local counsel of the contents of each response.

Bank of New York Mellon SA/NV, Luxembourg Branch has responded that it has no relevant documents to produce. No further proceedings are expected with regard to this letter of request.

Bank Internationale à Luxembourg, Clearstream Banking S.A., and J. Safra Sarasin (Luxembourg) S.A. have each submitted objections to the enforcement of the letters of request directed to them. PDVSA intends to challenge these objections, and litigation regarding the enforcement of the letters of request to these three entities is ongoing.

**Novo Banco S.A.**

The letter of request issued to Portugal and directed to Novo Banco S.A. continues to be litigated in the local Portuguese courts. Novo Banco S.A. has objected to the letter of request on the grounds of Portuguese bank secrecy laws. In response to Novo Banco's objection, the Ad Hoc Board of PDVSA (through counsel) authorized the disclosure of the documents. In response, Novo Banco filed a petition asserting that, given the political circumstances in Venezuela, there exists uncertainty as to who is authorized to waive bank secrecy laws on behalf of PDVSA. On September 29, 2022, the Portuguese court sent a request to the Central Authority of Portugal requesting that it request that the U.S. Courts identify the person who is PDVSA's legal representative. Such request has not yet been issued, to our knowledge.

**Euroclear Bank S.A./N.V.**

Proceedings regarding the enforcement of this letter rogatory are ongoing in Belgium. Under the current calendar set by the Belgian court, Euroclear's response is expected today, October 3, 2022. PDVSA has until November 7, 2022, to submit its final filing in support of enforcing its discovery request. A hearing on this matter will follow on December 12, 2022. Local counsel has advised that the Belgian court may hear oral arguments at this time or may adjourn oral arguments to a later date.

**China CITIC Bank**

Local counsel has confirmed that this letter of request is still pending and that the total processing time may take six months to a year due to recent COVID-19 outbreaks and resulting lockdowns.

Local counsel is regularly monitoring the status of the request and has remained in contact with representatives from China's Central Authority.

### **Gazprombank**

Following PDVSA's previous update letter to this Court, the Russian Ministry of Justice informed local counsel in an August 11, 2022 letter that it would not recognize the validity of or otherwise enforce the letter of request directed to Gazprombank (Joint Stock Company). In light of this, and the current diplomatic tensions between the United States and the Russian Federation related to the war in Ukraine, PDVSA is pursuing alternate means of enforcing this letter of request.

### **Agreement Between the Parties Regarding Further UBO Witnesses**

Following PDVSA's attempts to take the deposition of one of Syracuse's ultimate beneficial owners ("UBOs"), which were unsuccessful due to Syracuse's refusal to provide contact or legal representative information for this individual, counsel for the parties met and conferred, and reached a resolution of the issue. As confirmed in emails exchanged by counsel on August 29 and 30, 2022, PDVSA currently has no plan to depose any of Syracuse's UBOs, with the exception of the individual whose deposition was already noticed should that UBO's contact information become available. PDVSA will provide Syracuse with reasonable notice if it intends to depose any other UBO.

Likewise, the Parties understand that Syracuse currently has no plans to call any UBO as a witness at trial, other than the individual who has already been identified and deposed in this case. Syracuse has also represented that it does not believe that any other UBO is likely to have discoverable information that Syracuse may use to support its claims at trial. Should this change, Syracuse has agreed that it will: (1) disclose the identity and contact information of any such witness at least 45 days prior to any scheduled trial date; (2) accept service of a subpoena for a deposition of the UBO; and (3) cause the UBO to appear for a deposition in New York at least 30 days prior to any scheduled trial date.

Respectfully submitted,

/s/ Dennis H. Tracey, III

Dennis H. Tracey III

*Counsel for Defendant Petróleos de Venezuela S.A.*